

NOV 18 2005

Atty Docket No. 16869P-041700US

PTO FAX NO.: 1-571-273-8300

ATTENTION: Examiner Michael A. Lyons

Group Art Unit 2877

OFFICIAL COMMUNICATION
FOR THE PERSONAL ATTENTION OF
EXAMINER Michael A. Lyons

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following documents in re Application of Mineo NOMOTO, et al., Application No. 10/082,430, filed February 22, 2002 for METHOD AND APPARATUS FOR MEASURING THICKNESS OF THIN FILM AND DEVICE MANUFACTURING METHOD USING SAME are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Documents Attached

1. Transmittal Form
2. Fee Transmittal in duplicate
3. Terminal Disclaimer

Number of pages being transmitted, including this page: 5

Dated: 11/18/05


Cynthia McKinley

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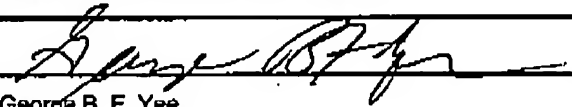
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834
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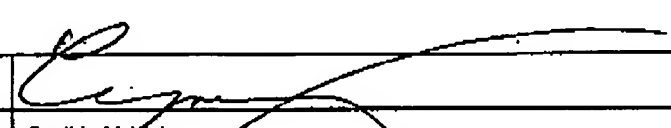
NOV 18 2005

PTO/SA/21 (09-04)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/082,430
	Filing Date	February 22, 2002
	First Named Inventor	Nomoto, Mineo
	Art Unit	2877
	Examiner Name	Michael A. Lyons
	Attorney Docket Number	16869P-041700US
Total Number of Pages in This Submission		✓

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input checked="" type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Postcard
Remarks: The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Townsend and Townsend and Crew LLP		
Signature			
Printed name	George B. F. Yee		
Date	November 18, 2005	Reg. No.	37,478

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, Fax No. 1-571-273-8300 on November 18, 2005.			
Signature			
Typed or printed name	Cynthia McKinley	Date	November 18, 2005

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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		NOT Complete if Known	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	10/082,430
TOTAL AMOUNT OF PAYMENT (\$)		Filing Date	February 22, 2002
		First Named Inventor	Nomoto, Mineo
		Examiner Name	Michael A. Lyons
		Art Unit	2877
		Attorney Docket No.	16869P-041700US

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____
☒ Deposit Account Deposit Account Number: 20-1430 Deposit Account Name: Townsend and Townsend and Crew LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Small Entity	Fee (\$)	Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25	
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100	
Multiple dependent claims	360	180	

Total Claims Extra Claims Fee (\$) Fee Paid (\$) Multiple Dependent Claims Fee (\$) Fee Paid (\$)
 -20 or HP = _____ x _____ = _____
 HP = highest number of total claims paid for, if greater than 20
 Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)
 -3 or HP = _____ x _____ = _____
 HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$) Fee Paid (\$)
 - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Terminal Disclaimer

Fees Paid (\$)

130

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	37,478	Telephone	650-326-2400
Name (Print/Type)	George B. F. Yee			Date	November 18, 2005

60639582 v1

**TERMINAL DISCLAIMER TO OBIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING SECOND APPLICATION**Docket Number (Optional)
16869P-041700US

In re Application of: Mineo NOMOTO, et al.

Application No.: 10/082,430

Filed: February 22, 2002

For: METHOD AND APPARATUS FOR MEASURING THICKNESS OF THIN FILM AND DEVICE MANUFACTURING
METHOD USING SAME

The owner, Hitachi, Ltd., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/082,520, filed on February 22, 2002, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 37,478


Signature

November 18, 2005
Date

George B. F. Yee
Typed or printed name

(650) 326-2400
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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